

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

863848

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
077863,848	04/06/92	ERSEK	R-910759-ORI

ISABELLA XAMINER

C. G. MERSEREAU
HAUGEN AND NIKOLAI
820 INTERNATIONAL CENTRE
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3325

ART UNIT	PAPER NUMBER
3308	

09/28/92

DATE MAILED:

For further information contact the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined

☒ Responsiva to communication filed on

☐ This action is made final.

A shortened statutory period for response to this action is set to expire Three month(s), _____ day(s) from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☐ Notice of References Cited by Examiner, PTO-892. 2. ☒ Notice of Patent Drawing, PTO-948.
3. ☒ Notice of Art Cited by Applicant, PTO-1449. 4. ☐ Notice of Informal Patent Application, Form PTO-152.
5. ☐ Information on How to Effect Drawing Changes, PTO-1474. 8. ☐ _____

Part II SUMMARY OF ACTION

1. ☒ Claims 1-25 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 1-23 are rejected.

5. ☐ Claims _____ are objected to.

8. ☐ Claims _____ are subject to restriction or election requirement.

7. ☐ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).

12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

Art Unit 3308

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,16 and 23 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Politano and applicant's specification. Politano discloses the method for treating urological disorder comprising the steps as claimed. The particles as claimed do not structurally distinguish over the same as disclosed by Politano. Applicant's specification discloses that the surgical steps of treating the disorders by injections of particles into the afflicted sites are well known in the art but none recognize the use of the particular particles as disclosed.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 3-6,8-15,17,18,19,20,21 and 24 are are rejected under 35 U.S.C. § 103 as being unpatentable over Politano (PUBS; "Periurethral teflon injection for urinary incontinence") as applied in t claims 1,2,16 and 23 further in view of Wallace and Berg.

The process for treating urological and gastric disorders is generally disclosed by Politano. It is

Art Unit 3308

not clear if there are cavities or pores formed within the particles. Berg, et al (285) teaches the use of porous particles for augmenting soft tissues wherein cellular ingrowth into the pores aids in the particles retention in the tissue. To use porous particles in the treatment of urinary incontinence to prevent particles migration from the implant site would have been obvious to one with ordinary skill in the art from Berg, et al.

Claims 4 and 5, see pages 182 and 420 of Politano.

Claim 6 see column 3, lines 1-10 of Wallace, et al.

Claims 8-15, are standard steps used in the treatment for urological and gastric disorders. It appears that the main inventive concept of the invention is directed to the use of the particular particles which reduces the migratory tendency of the same.

Claims 7, 22 and 25 are rejected under 35 U.S.C. § 103 as being unpatentable over Politano in view of Wallace and Berg as applied to claims 1, 2, 16 and 23 above, and further in view of Henderson, et al.

Polyvinyl pyrrolidone is well known for its use in the surgical art as a lubricating agent and physiological carrier as taught by Henderson, et al. To replace the physiological carrier of Politano with PVP if one desires more lubricity and biocompatibility, would have been obvious to one with ordinary skill in the art from Henderson.

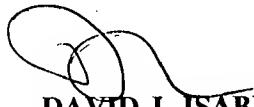
Serial No. 863848

-4-

Art Unit 3308

The prior art statement filed on 7-9-92 has been considered in part. Applicant failed to provide the office with a separate list of information directed to patents or foreign publications. Consequentially examiner has considered only those arts listed on the Attachment A. If applicant wishes to have the other prior arts considered then a form comprable to the PTO 1449 should be submitted.

Any inquiry concerning this communication should be directed to David J. Isabella at telephone number (703) 308-0858.



DAVID J. ISABELLA
PRIMARY EXAMINER
ART UNIT 3308

DJI
September 25, 1992